IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 26TH FEBRUARY 2007 / 7TH PHALGUNA 1928

Crl.MC.No. 292 of 2007()

CRIME NO.224/06 OF KANJIRAMKULAM POLICE STATION.

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PETITIONER:

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1. S.MADHU, S/O.SREEDHARAN,
   PUTHUVAL PUTHEN VEEDU, KAZHAVOOR P.O.,
   KANJIRAMKULAM.

2. RAJAMMA, W/O.SREEDHARAN,
   PUTHUVAL PUTHEN VEEDU, KAZHAVOOR P.O.,
   KANJIRAMKULAM.

3. SARITHA, D/O.RAJAMMA,
   CHARUVILA VEEDU, SREENARAYANAPURAM ROAD,
   KAZHAVOOR P.O.

4. BABU, KANAVILA VEEDU,
   POONKODU BHAGAVATHY NADA P.O.

5. SAVITHRI, W/O.BABU,
   KANAVILA VEEDU, POONKODU BHAGAVATHY NADA P.O.

BY ADV. SRI.S.RAJEEV

RESPONDENTS:

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1. SREEKALA.K., D/O.KUMARI,
   KURUVITHODATHU PUTHEN VEEDU,
   KAKKAVILA P.O., PAZHAYA UCHAKKADA,
   KARODU, NEYYATTINKARA, THIRUVANANTHAPURAM.

2. STATE OF KERALA, REPRESENTED BY
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM, (CRIME NO.224/2006 OF KANJIRAMKULAM
   POLICE STATION).

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 26/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 292 of 2007

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Dated this the 26th day of February, 2007

O R D E R

The first petitioner is the husband of the first respondent and petitioners 2 to 5 are the relatives of the first petitioner. Cognizance has been taken against all the petitioners for an offence punishable under Section 498A r/w. 34 I.P.C. on the basis of the final report submitted by the police after due investigation. Investigation commenced on the basis of a private complaint filed by the first respondent before the learned Magistrate, which was referred to the police under Section 156(3) Cr.P.C. Proceedings are pending before the learned Magistrate as C.C.No. 151 of 2007 (Crime No. 224 of 2006 of Kanjiramkulam Police Station).

2. The petitioners and the first respondent have now come before this Court with a prayer that powers under Section 482 Cr.P.C. may be invoked and the prosecution against the petitioners may be quashed, the first respondent and the petitioners having settled their disputes amicably. Annex.II affidavit is also filed by the first respondent to confirm that the disputes have been settled and the

offence alleged has been compounded by the first respondent. The marital tie has been dissolved by orders of the Family Court and in these circumstances the first respondent does not want to prosecute the complaint any longer. The affidavit produced as Annex.II is duly signed by the first respondent and attested by a counsel. Shri. R.T. Pradeep, counsel for the first respondent, also confirms that the first respondent has settled the disputes.

3. The learned Prosecutor was directed to take instructions. The learned Prosecutor also submits that the matter has been settled amicably between the first respondent and the petitioners.

4. In these circumstances, though Shri. R.T. Pradeep has not filed the Vakalath yet and undertakes to file the Vakalath, I am satisfied that it is not necessary to wait any longer for the filing of the Vakalath. The learned counsel for the first respondent, Shri.R.T. Pradeep, confirms that the 1st respondent has signed and subscribed to the contents of the affidavit.

5. Offence under Section 498A I.P.C. is not declared to be compoundable under Section 320 Cr.P.C. The learned counsel for the petitioners places reliance on the decision in **B.S. Joshi** v. **State of Haryana** (AIR 2003 SC 1386). In that case it has been held that powers

under Section 482 Cr.P.C. are not fettered by the provisions of Section 320 Cr.P.C. and in an appropriate case to serve the ends of justice, which may at times transcend the interests of mere law, powers under Section 482 Cr.P.C. can be invoked. I am satisfied, in the facts and circumstances of this case, that the request made by the petitioners and the first respondent can be accepted and invoking the dictum in **B.S. Joshi** the proceedings can be quashed.

6. This Crl.M.C. is accordingly allowed. C.C.No. 151 of 2007 pending before the J.F.C.M. -III, Neyyattinkara arising from Crime No. 224 of 2006 of Kanjiramkulam Police Station against the petitioners is hereby quashed.

(R. BASANT)
Judge

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